



SENATE REPUBLICAN

POLICY COMMITTEE

Legislative Notice

No. 47

February 1, 2008

H.R. 5140 – Economic Growth Act of 2008

Calendar No. 566

On January 30, 2008, H.R. 5140 was read for a second time and placed on the Senate Calendar.

Noteworthy

- On January 31, 2008, Senator Reid filed cloture on the motion to proceed to H.R. 5140. The Senate will conduct a cloture vote at 5:30 p.m. on Monday, February 4, 2008.
- H.R. 5140, as passed by the House, includes rebate checks in the sum of two separate calculations, with an overall phase-out for those with *adjusted gross incomes* above \$75,000 for a single taxpayer and \$150,000 for married couples. Rebate checks will include a base amount determined by the greater of two options: (a) Income tax paid in 2007, with a maximum of \$600 for a single taxpayer and \$1,200 for married couples; or (b) \$300 for an individual and \$600 for a married couple, provided the individual or couple earned income of at least \$3,000 in 2007.
- The amount of the tax rebate will be increased by \$300 for each child under the age of 17, with no limit on the number of children.
- The bill allows employers to fully expense both new and used tangible property valued up to \$250,000 (currently \$128,000) in the year it is purchased, up to an overall annual investment limit of \$800,000 (currently \$510,000).
- H.R. 5140 provides for a one-time 50 percent “bonus” tax deduction on new equipment in the year it is placed in service, on property with a depreciation period of 20 years or less.
- The bill increases the conforming loan limits (i.e. the maximum value of loans that may be purchased) for Government-Sponsored Enterprises (GSEs) from \$417,000 up to \$729,750, and also increases the loan limits for the Federal Housing Administration (FHA) from \$362,000 up to \$729,750. This provision applies to mortgages that originated between July 1, 2007 and December 31, 2008.
- The House of Representatives passed H.R. 5140 on January 29, 2008, by a vote of 385-35.

Background/Overview

A number of policy makers and economists have expressed concern that the rate of growth of the U.S. economy is slowing and that a significant economic downturn, or recession, may lie ahead.¹ The variables commonly examined to identify whether the economy is in recession are the rate of growth of real gross domestic product (GDP), the unemployment rate, the capacity utilization rate, the inflation rate, and interest rates. When the rate of growth of GDP is low, or negative, and when unemployment increases and capacity utilization decreases, policy makers often consider adopting fiscal stimulus policies.²

In the past, such policies have been intended to increase demand for goods and services either by individuals, businesses or governments. The U.S. economy experienced periods identified as recessions beginning in 1960, 1970, 1974, 1980, 1982, 1990, and 2001. While Congress often has multiple policy goals when it passes tax legislation, many analysts identify tax bills passed in 1962, 1964, 1971, 1975, 1981, 1992 (vetoed by the President), 2001, 2002, and 2003 as attempts to stimulate the economy. Congress has crafted tax reducing provisions for both individuals and businesses in its past efforts to stimulate the economy.³

Stimulus Targeted at Individuals

Type of Provision	Year
Cash Rebates.....	1975, 2001, 2003
Increase in standard deduction.....	1971, 1975, 2001
Increase dependent exemptions or credits	1971, 1975, 1992,* 2001, 2003
Reduce individual tax rates.....	1964, 1975, 1981, 2001, 2003
Increase in the earned income tax credit.....	1975, 1992,* 2001
Provide an individual credit for FICA taxes	1992*
Reduce tax rate applicable to income from capital gains	1981, 2003
Reduce tax rate applicable to dividend income	2003

Stimulus Targeted at Business

Type of Provision	Year
Reduce corporate income tax rates	1964, 1981
Provide an extended carry back or carry over for net operating losses	1981, 2002
Provide an investment tax credit.....	1962, 1971, 1975, 1981
Modify depreciation schedules	1962, 1971, 1981, 1992,* 2002, 2003
Expand expensing permitted under Sec. 179.....	1992,* 2003

*Bill was vetoed by the President.

¹ Joint Committee on Taxation, *Overview of Past Tax Legislation Providing Fiscal Stimulus and Issues in Designing and Delivering a Cash Rebate to Individuals*, (JCX-4-08), January 21, 2008.

² Joint Committee on Taxation, *Overview of Past Tax Legislation Providing Fiscal Stimulus and Issues in Designing and Delivering a Cash Rebate to Individuals*, (JCX-4-08), January 21, 2008.

³ Joint Committee on Taxation, *Overview of Past Tax Legislation Providing Fiscal Stimulus and Issues in Designing and Delivering a Cash Rebate to Individuals*, (JCX-4-08), January 21, 2008.

In an attempt to respond to the slowdown of the economy, House Leaders in conjunction with Secretary of the Treasury Paulson drafted H.R. 5140.

Bill Provisions

Individual Tax Provisions

Tax Rebate for Working Families. The package provides a tax rebate in an amount equal to the lesser of an individual's net income tax liability or \$600 (\$1,200 in the case of married couples filing a joint return). In the case of taxpayers with earned income of at least \$3,000 and taxpayers with positive income tax liability, this tax rebate will not be less than \$300 (\$600 in the case of married couples filing a joint return). The amount of the tax rebate will be increased by \$300 for each child under the age of 17, with no limit on the number of children. These rebates will be subject to a phase-out for taxpayers with *adjusted gross income* in excess of \$75,000 (\$150,000 for married couples filing jointly). (The total rebate phases out by five percent of AGI above the \$75,000/\$150,000 levels.) Americans will not have to apply or file for the checks; they will be calculated automatically. In addition, the rebate amount will not qualify as taxable income for tax year 2008. The IRS estimates that they would be able to print the checks within 60 days of the bill signing. *This proposal is estimated to cost approximately \$101.1 billion in 2008 and \$109.7 billion over ten years.*

Business Tax Provisions

Bonus Depreciation. The package allows businesses to quickly recover the costs of capital expenditures made in 2008 by allowing these businesses to write-off 50 percent of the cost of depreciable property (e.g., equipment, tractors, computers) acquired in 2008. In subsequent years, businesses will continue to depreciate the remaining cost of depreciable property under the current law-depreciation. The proposal is effective for taxable year 2008. *This proposal is estimated to cost approximately \$43.9 billion in 2008 and \$7.4 billion over ten years.*

Section 179 Small Business Expensing. Small business taxpayers may elect to write-off the cost of expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Until the end of 2010, small business taxpayers are allowed to write-off up to \$125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed \$500,000 (indexed for inflation). The package increases the amount that small business taxpayers may write-off to \$250,000 for capital expenditures incurred in 2008 and increases the phase-out threshold to \$800,000 in 2008. The \$250,000 and \$800,000 amounts are not indexed for inflation. The proposal is effective for taxable year 2008. *This proposal is estimated to cost \$900 million in 2008 and \$100 million over ten years.*

Increase in Government Sponsored Enterprises (GSE)/Federal Housing Administration (FHA) Conforming Loan Limit. The bill increases the conforming loan limits (i.e. the maximum value of loans that may be purchased) for Government-Sponsored Enterprises (GSEs, such as Fannie Mae and Freddie Mac) from \$417,000 to \$729,750. The bill also increases the loan limits for the Federal Housing Administration (FHA) (i.e. the maximum amount of mortgage insured by the FHA) from

\$362,000 to \$633,500. This provision applies to mortgages that originated between July 1, 2007 and December 31, 2008.

Administration Position

The Statement of Administration Policy (SAP) for this bill is as follows:⁴

The Administration strongly supports House passage of H.R. 5140, the bipartisan economic growth compromise, without amendment. This legislation meets the criteria set out by the Administration that an economic growth package be large enough to make a difference, immediate in its impact, broad-based, temporary, and based on tax relief rather than government spending programs. The Administration commends the House for taking swift, decisive bipartisan action to improve the Nation's near-term economic outlook.

Possible Amendment

Substitute Amendment. A Finance Committee substitute is expected to be offered. The following language was reported out of the Finance Committee on January 30, 2008, by a vote of 14-7.

Individual Tax Provisions

Income Tax Rebate. Taxpayers will receive a payment of \$500 (\$1000 for married filing jointly) if the taxpayer files a tax return for the 2007 tax year as long as the taxpayer reports a tax liability of at least \$1 or \$3000 in wages, net self-employment income, or social security benefits on his/her tax return. In addition, an eligible tax filer will receive \$300 for every child. The rebate is phased-out for single filers with more than \$150,000 of adjusted gross income (AGI) and \$300,000 for a married couple filing jointly. Individuals are able to count the social security income towards the \$3000 threshold. In addition, veterans are able to count their disability income towards the \$3000 threshold. *This proposal is estimated to cost approximately \$115.1 billion in 2008 and \$126.4 billion over ten years.*

Business Tax Provisions

Businesses are allowed to choose one of the following:

Elective Expensing (Section 179). Small business taxpayers may elect to deduct (or expense) the cost of qualified assets (or property) they purchase in the year when the assets are placed in service, within certain limits. Under section 179, small business taxpayers are allowed to expense \$125,000

⁴ <http://www.whitehouse.gov/omb/legislative/sap/110-2/saphr5140-h.pdf>

(indexed for inflation), and the phaseout threshold is \$500,000 (indexed for inflation). Currently in 2008, the expensing limit is \$128,000 and the phase-out threshold is \$510,000. The proposal increases the expensing limit to \$250,000 and the phase-out to \$800,000 for 2008. The proposal is effective for taxable year 2008. *This proposal is estimated to cost \$900 million in 2008 and \$100 million over ten years.*

Bonus Depreciation. Generally a trade or business must recover the cost of property over a predetermined period of years. This proposal will allow a trade or business to depreciate an additional 25 percent of the cost of an asset acquired and placed into service in 2008 in that year and another 25 percent in the next year. The types of property eligible for bonus depreciation will be the same as those included in the previous depreciation packages: (1) tangible property that had a recovery period not exceeding 20 years; (2) purchased computer software; (3) water utility property; and (4) qualified leasehold improvement property. The bonus depreciation will be allowed under the alternative minimum tax (AMT). The proposal is effective for calendar year 2008 beginning after the date of first Finance Committee action. *This proposal is estimated to cost \$16.4 billion in 2008, \$20.2 billion in 2009, and \$6.7 billion over ten years.*

Extension of the net operating loss carry back period. The provision extends the carry back period for net operating losses (NOLs) from two years to five years for NOLs arising in tax years 2006, 2007, and 2008. NOLs are allowed to offset 100 percent of a taxpayer's alternative minimum taxable income. Please note that a taxpayer may elect to use *one* of the following: net operating loss arising in 2006, 2007, and 2008 with a five year carry back period; bonus depreciation; or Sec. 179 expensing. NOL benefits industries such as homebuilders and banks that may not have taxable income this year. *This proposal is estimated to cost approximately \$15 billion in 2008 and \$5.1 billion over ten years.*

Unemployment Benefits

Unemployment Insurance Benefit Extension. The provision will provide an extension of the lesser of 50 percent of a state's regular length of unemployment benefits or up to 13 weeks of additional unemployment benefits for all states. The extension is in addition to the up to 26 weeks provided in the regular federal-state unemployment compensation program. An additional benefits period of the lesser of 50 percent of a state's regular length of unemployment benefits or up to 13 weeks will be available for states with high unemployment, defined as states with: 1) an insured unemployment rate of four percent and a rate of unemployment that is 120 percent of the average of the rates for the same 13-week period in each of the two previous years; 2) a total unemployment rate of six and a half percent without regard to the corresponding rate in previous years; or 3) an unemployment rate that would trigger extended benefits under current law. The additional benefits provided in the bill will be available to claimants who established eligibility after February 1, 2006. Unchanged from the mark, the bill provides that states are to be reimbursed 100 percent of the extended unemployment benefits paid to individuals under the extension. States are also to receive such funds as may be necessary to meet their costs for administering the extension. Eligibility for extended unemployment benefits ends on December 31, 2008, though the phase-out for those receiving benefits continues until March 31, 2009. *This proposal is estimated to cost approximately \$10.1 billion in 2008 and \$9.9 billion over ten years.*

Energy Tax Provisions

Production Tax Credit (Section 45). Extends the placed-in-service deadline for qualifying electric generating facilities (wind, biomass, geothermal, small irrigation hydro, landfill gas, and trash combustion facilities) for one year. Also modifies the market value test for refined coal.

The proposal is estimated to cost \$3 billion over ten years.

Solar, fuel cell, microturbine credits (Sections 48 and 25D). Extends Section 48 (30 percent investment credit for solar and fuel cell property, ten percent credit for microturbines) and the Section 25D residential solar credit for one year. *The proposal is estimated to cost \$130 million over ten years.*

Clean Renewable Energy Bonds (CREBs). Provides \$400 million in new CREBs issuance to finance facilities that generate electricity from the following resources: wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, marine renewable, and trash combustion facilities. *The proposal is estimated to cost \$206 million over ten years.*

Appliances Manufacturer Credit. Extends the manufacturer credit for high-efficiency appliances (dishwashers, refrigerators, and clothes washers) for two years through 2009. *The proposal is estimated to cost \$323 million over ten years.*

Energy-Efficient Existing Homes. Extends 10 percent investment tax credit for energy-efficient home retrofits (windows, heating and cooling equipment, etc) through 2009. In addition, it adds energy-efficient biomass fuel stoves as a new class of energy-efficient property eligible for a consumer tax credit of \$300. *The proposal is estimated to cost \$1.5 billion over ten years.*

Energy-efficient Commercial Buildings. Extends the deduction for energy-efficient commercial buildings for one year. *The proposal is estimated to cost \$153 million over ten years.*

Energy-efficient New Homes. Extends credit for energy-efficient new homes for one year. *The proposal is estimated to cost \$61 million over ten years.*

Percentage depletion for marginal wells. Extends the suspension on the taxable income limit for purposes of depreciating a marginal oil or gas well through 2009. *The proposal is estimated to cost \$247 million over ten years.*

Mortgage Bonds

Volume Cap Increase for Qualified Mortgage Bonds & Residential Rental Project Exempt Facility Bonds. Under current law, state and local governments may issue bonds to finance new mortgage loans to first-time homebuyers. The provision will temporarily expand the use of this program to include refinancing of subprime loans. The proposal will also allow states to issue up to \$10 billion in additional bonds over the next three years. This would allow homebuyers facing foreclosure the opportunity to refinance. Nationwide, it is estimated that the proposal would lead to roughly 80,000 new loans according to the National Council of State Housing Agencies. *The proposal is estimated to cost \$1.7 billion over ten years.*

Cost

The Joint Committee on Taxation (JCT) estimates that the bill would cost \$145.9 billion in FY 2008. The bill would appropriate \$251.13 million for fiscal year 2008 for the Treasury Department to administer the checks. <http://www.house.gov/jct/x-6-08.pdf>

The JCT estimates that the Finance Committee substitute as it stands now would cost \$158.1 billion in FY 2008. <http://www.house.gov/jct/x-13-08.pdf>